

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**CULY CONSTRUCTION &
EXCAVATING, INC.,**

Plaintiff,

v.

**Civil Action 2:12-cv-4
JUDGE GREGORY L. FROST
Magistrate Judge E.A. Preston Judge Deavers**

LANEY DIRECTIONAL DRILLING CO.,

Defendant.

ORDER

The Court **GRANTS** Defendant's Motion to Confirm that Defendant's Deadline to Move or Plead in Response to the Complaint is January 31, 2012 (ECF No. 8), and **DENIES WITHOUT PREJUDICE** Plaintiff's Application for Entry of Default (ECF No. 6) as premature.

Plaintiff filed this action in the Court of Common Pleas for Franklin County, Ohio on November 30, 2011. In accordance with the state court's local rules, Defendant obtained an extension to move or otherwise plead until January 31, 2012. Defendant subsequently removed this action to this Court. On January 19, 2012, Plaintiff filed an Application for Entry of Default. (ECF No. 6.) Citing Southern District of Ohio Local Rule 6.1 and Federal Rule of Civil Procedure 81(c), Plaintiff asserts that the extension Defendant obtained in state Court does not extend the time Defendant has to plead in this Court and that, consequently, Defendant has failed to timely respond to its Complaint. Defendant has moved for a Court order declaring that the extension it obtained in state Court remains valid. (ECF No. 8.)

The Court rejects Plaintiff's assertion that the extension Defendant properly obtained in state court does not likewise extend the time to plead in federal court. Nothing in either Local Rule 6.1 or Rule 81(c) suggests that removal operates to invalidate extensions properly obtained in state court prior to removal. Rule 81(c) sets forth the deadlines within which a Defendant must answer or otherwise plead absent any extension. Local Rule 6.1 sets forth this Court's procedures for obtaining an extension to plead. Certainly, if Defendant sought to obtain a stipulation after removal, it would need to comply with Local Rule 6.1. Here, however, Defendant obtained a valid extension while the action was still pending in state court. Neither the Federal Rules nor this Court's Local Rules invalidate that extension. Accordingly, Defendant must move or plead **ON OR BEFORE JANUARY 31, 2012**.

IT IS SO ORDERED.

Date: January 20, 2012

/s/ Elizabeth A. Preston Deavers

Elizabeth A. Preston Deavers
United States Magistrate Judge